

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

FILED

MAR 13 2017

Clerk, U.S. District Court
District Of Montana
Billings

UNITED STATES OF AMERICA,

Plaintiff,

vs.

NICHOLAS MONTANO,

Defendant.

CR 10-155-BLG-SPW

ORDER

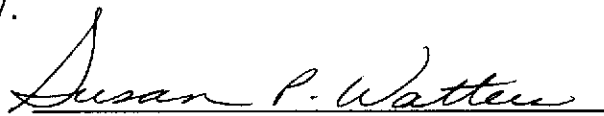
Before this Court is a letter from Defendant Montano captioned as a Motion for Extension of Time to File a Notice to Appeal. (*See* Doc. 87). Since his petition for warrant or summons was filed, Montano elected to proceed with counsel. (*See* Docs. 70, 71, 72). Since then, the Court has not received any notification that Montano's trial counsel has withdrawn.

Despite having counsel, Montano personally filed his motion. Through this filing, Montano engages in hybrid representation without first seeking this Court's permission. *See United States v. Klee*, 494 F.2d 394, 396-97 (9th Cir. 1974) (a criminal defendant does not have an absolute right to both self-representation and the assistance of counsel); *see also United States v. Daniels*, 572 F.2d 535, 540 (5th Cir. 1978) (whether to allow hybrid representation remains within the sound discretion of the trial judge). Under such circumstances, "[a] district court has no obligation to entertain pro se motions filed by a represented party." *Abdullah v.*

United States, 240 F.3d 683, 686 (8th Cir. 2001). This Court will not consider pro se motions filed by Montano while he is represented by counsel. Considering this ruling, however, the Court directs Montano's counsel to consult with him to determine whether a Notice of Appeal shall be filed by the deadline or whether a motion for extension is necessary.

IT IS SO ORDERED.

DATED this 23rd day of March 2017.


SUSAN P. WATTERS
United States District Judge